

109TH CONGRESS  
1ST SESSION

# H. R. 4364

To protect the right of elected and appointed officials to express their religious beliefs through public prayer.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2005

Mr. BARRETT of South Carolina (for himself and Mr. BROWN of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To protect the right of elected and appointed officials to express their religious beliefs through public prayer.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Public Prayer Protec-  
5       tion Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

8               (1) The Establishment Clause of the First  
9       Amendment to the United States Constitution was  
10      intended by our Founding Fathers to prohibit one

1 religious denomination from enjoying the exclusive  
2 backing of government and to prohibit the Federal  
3 establishment of any type of religious uniformity or  
4 orthodoxy that rewards observers and punishes viola-  
5 tors.

6 (2) The First Amendment guarantees the right  
7 of elected and appointed officials to express their re-  
8 ligious beliefs through public prayer.

9 (3) The exercise of this right does not violate  
10 the Establishment Clause.

11 (4) The courts and the legislatures of the sev-  
12 eral States are in the best position to protect this  
13 right.

14 (5) Article III, Section 2, clause 2 of the United  
15 States Constitution expressly grants Congress the  
16 authority to define the appellate jurisdiction of the  
17 Federal court system.

18 **SEC. 3. LIMITATION ON APPELLATE JURISDICTION.**

19 (a) AMENDMENT TO TITLE 28.—Chapter 81 of title  
20 28, United States Code, is amended by adding at the end  
21 the following:

22 **“§ 1260. Matters not reviewable**

23 “Notwithstanding any other provision of this chapter,  
24 the Supreme Court shall not have jurisdiction to review,  
25 by appeal, writ of certiorari, or otherwise, any matter that

1 relates to the alleged establishment of religion involving  
 2 an entity of the Federal Government or a State or local  
 3 government, or an officer or agent of the Federal Govern-  
 4 ment or a State or local government, acting in an official  
 5 capacity, concerning the expression of public prayer by  
 6 that entity, officer, or agent.”.

7 (b) TABLE OF SECTIONS.—The table of sections at  
 8 the beginning of chapter 81 of title 28, United States  
 9 Code, is amended by adding at the end the following:

“1260. Matters not reviewable.”.

10 **SEC. 4. LIMITATION ON JURISDICTION OF DISTRICT**  
 11 **COURTS.**

12 (a) AMENDMENT TO TITLE 28.—Chapter 85 of title  
 13 28, United States Code, is amended by adding at the end  
 14 of the following:

15 **“§ 1370. Limitation on jurisdiction**

16 “Notwithstanding any other provision of law, the dis-  
 17 trict courts shall not have jurisdiction of any matter that  
 18 relates to the alleged establishment of religion involving  
 19 an entity of the Federal Government or a State or local  
 20 government, or an officer or agent of the Federal Govern-  
 21 ment or a State or local government, acting in an official  
 22 capacity, concerning the expression of public prayer by  
 23 that entity, officer, or agent.”.

1       (b) TABLE OF SECTIONS.—The table of sections at  
2 the beginning of chapter 85 of title 28, United States  
3 Code, is amended by adding at the end the following:

“1370. Limitation on jurisdiction.”.

4 **SEC. 5. EXTRAJURISDICTIONAL CASES NOT BINDING ON**  
5 **STATES.**

6       Any decision of a Federal court which has been made  
7 before, on, or after the date of the enactment of this Act,  
8 to the extent that the decision relates to an issue removed  
9 from Federal jurisdiction under section 1260 or 1370 of  
10 title 28, United States Code, as added by this Act, is not  
11 binding precedent on the court of any State, the District  
12 of Columbia, or any commonwealth, territory, or posses-  
13 sion of the United States, or on the court of any subdivi-  
14 sion thereof.

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